

House Bill 1275 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 129th, Floyd of the 147th, Rynders of the 152nd, Graves of the 12th, and Channell of the 116th

A BILL TO BE ENTITLED

AN ACT

To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to provide for the revocation of a commercial driver's license upon violation of Code Sections 16-8-2 through 16-8-9; to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to driver's licenses, so as to provide for the acquisition and admission of evidence regarding driving under the influence under certain circumstances; to disqualify certain commercial driver's license holders upon conviction of certain offenses; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, is amended by striking paragraph (8) of subsection (a) of Code Section 16-8-12, relating to penalties for violation of Code Sections 16-8-2 through 16-8-9, and inserting in its place a new paragraph (8) to read as follows:

"(8) If the property that was the subject of the theft was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto, including without limitation any such trailer, semitrailer, container, or other associated equipment, or the cargo being transported therein or thereon, by imprisonment for not less than three years nor more than ten years, a fine not less than \$5,000.00 nor more than \$50,000.00, and, if applicable, the revocation of the defendant's commercial driver's license in accordance with Code Section 40-5-151, or ~~both such fine and imprisonment~~ any combination of such penalties. For purposes of this paragraph, the term 'vehicle' includes without limitation any railcar."

SECTION 2.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to driver's licenses, is amended by inserting a new subsection (d.1) in Code Section 40-5-67.1, relating to chemical tests, to read as follows:

"(d.1) Nothing in this Code section shall be deemed to preclude the acquisition or admission of evidence of a violation of Code Section 40-6-391 if obtained by voluntary consent or a search warrant as authorized by the Constitution or laws of this state or the United States."

SECTION 3.

Said chapter is further amended by striking subsection (a) of Code Section 40-5-151, relating to disqualification from driving, and inserting in lieu thereof the following:

"(a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year:

(1) If convicted of a first violation of:

(A) Any offense specified in Code Section 40-5-54 that occurs while the person is driving or being in actual physical control of a moving commercial motor vehicle or a moving noncommercial vehicle;

(B) Driving or being in actual physical control of a moving commercial motor vehicle while there is 0.04 percent or more by weight of alcohol in his or her blood, breath, or urine; ~~or~~

(C) Driving or being in actual physical control of a moving noncommercial vehicle in violation of Code Section 40-6-391; or

(D) Code Sections 16-8-2 through 16-8-9, if the property that was the subject of the theft was a vehicle engaged in commercial transportation as set forth in paragraph (8) of subsection (a) of Code Section 16-8-12; or

(2) For refusal to submit to a test as prescribed in Code Section 40-5-55 to determine the driver's alcohol concentration while driving a commercial motor vehicle or a noncommercial motor vehicle."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.